

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONY E. PONCE,) Case No.: 1:21-cv-01727-KES-HBK (HC)
Petitioner,)
v.) ORDER ADOPTING FINDINGS AND
CHRISTIAN PFEIFFER,) RECOMMENDATIONS, DENYING PETITION
Respondent.) FOR WRIT OF HABEAS CORPUS,
) DIRECTING CLERK OF COURT TO CLOSE
) CASE, AND DECLINING TO ISSUE
) CERTIFICATE OF APPEALABILITY
) (Docs. 12, 30)
)

Petitioner Tony E. Ponce is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Docs. 1, 2, 12. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 24, 2025, the assigned magistrate judge issued findings and recommendations recommending that the petition for writ of habeas corpus be denied as without merit. Doc. 30. Those findings and recommendations were served upon all parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. Petitioner has not filed objections, and the deadline to do so has expired.

Pursuant to 28 U.S.C. § 636(b)(1), the Court performed a de novo review of this case. Having carefully reviewed the relevant filings, the Court concludes the findings and

1 recommendations are supported by the record and proper analysis.

2 A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal; rather,
3 an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36
4 (2003); 28 U.S.C. § 2253. If a court denies a habeas petition on the merits, the court may issue a
5 certificate of appealability only “if jurists of reason could disagree with the district court’s
6 resolution of [the petitioner’s] constitutional claims or that jurists could conclude the issues
7 presented are adequate to deserve encouragement to proceed further.” *Miller-El*, 537 U.S. at 327;
8 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While the petitioner is not required to prove the
9 merits of his case, he must demonstrate “something more than the absence of frivolity or the
10 existence of mere good faith on his . . . part.” *Miller-El*, 537 U.S. at 338.

11 The Court finds that reasonable jurists would not find the Court’s determination that the
12 petition should be denied debatable or wrong, or that the issues presented are deserving of
13 encouragement to proceed further. Petitioner has not made the required substantial showing of
14 the denial of a constitutional right. Therefore, the Court declines to issue a certificate of
15 appealability.

16 Based upon the foregoing, the Court **ORDERS**:

- 17 1. The Findings and Recommendations issued on February 24, 2025, Doc. 30, are
18 **ADOPTED** in full.
- 19 2. The petition for writ of habeas corpus, Doc. 12, is **DENIED**.
- 20 3. The Court declines to issue a certificate of appealability.
- 21 4. The Clerk of the Court is directed to close the case.

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24 IT IS SO ORDERED.

25 Dated: March 27, 2025


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27 UNITED STATES DISTRICT JUDGE
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